

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

ORDER ACCEPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

After making an independent review of the pleadings, files, and records in this case, of the Report and Recommendation of the United States Magistrate Judge and of Petitioner's objections thereto, I am of the opinion that the findings of fact, conclusions of law, and reasons for dismissal set forth in the Magistrate Judge's Recommendation are correct and they are hereby adopted and incorporated by reference as the Findings of the Court.

This is a habeas action filed under 28 U.S.C. § 2254. Petitioner challenges prison disciplinary action taken against him at the James V. Allred Unit in Iowa Park, Texas. On November 22, 2016, the United States Magistrate Judge entered a Notice of Deficiency and Order directing Petitioner to either pay the \$5.00 filing fee or file a motion for leave to proceed *in forma pauperis*. See ECF No. 4. Petitioner was further ordered to resubmit his petition on the form required for actions brought under § 2254. *Id.* Petitioner failed to comply with the order and the Magistrate Judge has recommended dismissal for want of prosecution. See ECF No. 13. Although

Petitioner submitted objections to the Magistrate Judge's Recommendation, he has failed to comply with the Notice of Deficiency and Order.

Review of the petition reveals that, upon dismissal, Petitioner's habeas claims will likely be time-barred. *See* 28 U.S.C. § 2244(d) (a one-year statute of limitations applies to § 2254 habeas petitions).

For the foregoing reasons, this action is dismissed pursuant to Rule 41(b), Federal Rules of Civil Procedure, for want of prosecution. This dismissal is without prejudice to Petitioner's right to reopen the case provided that, within thirty (30) days of the date of this order, he submits a motion to reopen the case and cures the deficiencies as previously ordered.

SO ORDERED this 25th day of January, 2017.



Reed O'Connor
UNITED STATES DISTRICT JUDGE